

### **REMARKS**

In view of the following remarks, Applicant requests reconsideration of the rejections in the Office Action dated September 18, 2008. Claims 1-18 are pending with claims 1, 13 and 18 being independent. Claim 18 has been amended; no new matter has been presented. All claims are currently rejected under 35 U.S.C. 102(b) as allegedly being anticipated by German Patent 10136354.

As detailed below, it is respectfully submitted that Claims 1-18 are in condition for allowance and early notice of the same is earnestly solicited. In particular, regarding the rejection of independent Claims 1, 13, and 18, the Office Action alleges that the cited German Patent teaches each and every element of the recited Claims 1, 13, and 18. Applicant respectfully disagrees as outlined below, as the Office may verify for itself after a further review of the German Patent.

On page 2 of the Office Action dated September 18, 2008, Figures 1 and 5 of the German Patent are cited as allegedly teaching each and every element of the independent Claims 1, 13, and 18. Claims 1, 13, and 18 recite, among other things, “wherein said conveying track is tilted about said longitudinal axis towards said picking person, at least in said working area of said picking person” (emphasis added).

The cited German Patent appears to teach an order-picking system 1 (Figures 1-5). Picking stations 4 and 5 are accessible by respective picking persons. A conveying system, including conveyer track sections 14 and 15, is apparently arranged with a longitudinal axis. It appears that the conveying system conveys containers 3 to the picking stations 4 and 5. Further, the picking stations 4 and 5 appear to include lateral discharge regions 17 (Figures 1 and 5) with a tilting device 21 (Figures 3 and 5) for tilting the containers 3. It appears that pusher elements 20 thrust the containers 3 from the conveyer track sections 14 and 15 and onto the lateral discharge regions 17.

Applicant respectfully submits that the cited German Patent does not disclose any tilting of the conveyor track sections 14 and 15. Rather, tilting occurs at the lateral discharge regions 17 by the tilting device 21. The feature of tilting is only found in the lateral discharge regions 17. Although this element is attached to the conveyor track sections 14 and 15, there is no teaching or suggestion of tilting the conveyor track itself. A lateral discharging region is “static” with respect to the order picking of the containers 3; it does not allow for movement of the containers 3 along the longitudinal axis of the conveyor track, it is merely part of the working area of the picking stations 4 and 5, adjacent to the conveyor track.

Applicant respectfully submits that the cited German Patent does not teach or suggest independent Claims 1, 13, and 18 which recite, among other things, “wherein said conveying track is tilted about said longitudinal axis towards said picking person, at least in said working area of said picking person”. For at least this reason, independent Claims 1, 13, and 18 and dependent claims 2-12 and 14-17 are neither anticipated nor obvious over the cited German Patent.

In addition, dependent claim 2-12 and 14-17 present additional patentable subject matter. For example, claims 3 and 15, recite that the conveying track includes a tilting device to move the storage containers which are to be transported into said working area into a tilted position; and, claims 5 and 15 recite that the conveying track includes a tilt back device to move the storage containers back into an un-tilted position. As mentioned above, the cited German Patent does not teach or suggest any tilting or un-tilting of the conveying track.

In view of the above, Applicant respectfully submits that the rejection under 35 U.S.C. 102(b) is improper and should be withdrawn.

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In conclusion, the Applicant believes all claims are allowable and requests that the rejections in the Office Action dated September 18, 2008 be withdrawn. Accordingly, the Applicant asks that a Notice of Allowance be issued. The Examiner is urged to contact the undersigned should he or she have any questions.

Respectfully submitted,

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